

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Office Action mailed on June 5, 2009, and the references cited therewith.

Claims 1, 6, 17, 31-33, 47, and 51 are amended, claim 30 is canceled, and no claims are added in the present response; claims 9, 12-16, 18-29, 48, and 50 were previously withdrawn; as a result, claims 1, 3-29, 31-33, 47, 48, 50, and 51 are now pending in this application.

#### **Examiner's Interview Summary**

Applicant thanks Examiner Lang for the courtesy of a telephone interview conducted on August 4, 2009. Proposed amendments to independent claims 1 and 47 were discussed in view of the Burton, Abrams, and Fielder documents. Examiner Lang provided helpful feedback on the proposed amendments and guidance towards additional subject matter that may distinguish the claims from known art. No specific agreement was reached concerning allowability.

#### **§103 Rejection of the Claims**

Claims 1, 3-5, 10-11, and 47 were rejected under 35 USC § 103(a) as being unpatentable over Burton, et al. (U.S. Patent No. 5,078,720) in view of Abrams, et al. (U.S. Publication No. 2003/0050684). Applicant respectfully traverses the rejection as follows.

Applicant respectfully submits that the Abrams reference is not an appropriate § 103(a) reference under § 103(c) because the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. The present application was assigned to SciMed Life Systems, Inc. at reel/frame 012638/0143 recorded 02/21/2002. The Abrams application was assigned to SciMed Life Systems, Inc. at reel/frame 012164/0445, recorded 09/10/2001. Although the Abrams application was filed on September 10, 2001, it did not publish until March

13, 2003, which is after the filing date of the present application (February 22, 2002).

Nonetheless, in the interests of furthering prosecution in the present case, Applicant will address the present rejection, as the Abrams reference was cited at Page 4 of the Office Action dated June 5, 2009, to teach that “self expanding stents and balloon expandable stents are both well known in the art and interchangeable,” such that Burton could be modified by replacing the self expanding stent taught therein with a balloon expandable stent.

Applicant respectfully submits that the cited references do not teach each and every element and limitation of Applicant’s independent claims 1 and 47, as amended. Applicant has amended independent claim 1 to recite and anchoring means configured to:

engage and anchor only a proximal portion of the endoluminal device after unsheathing of a distal portion of the endoluminal device.

Claim 1 has also been amended to recite:

a proximally retractable retrograde sheath mounted concentrically over the shaft and inner sheath in the retrograde portion of the introducer and extending distally over a retrograde portion of the endoluminal device, wherein the retrograde sheath and the anterograde sheath are laterally spaced from one another at least when the retrograde sheath is proximally retracted.

Applicant has amended independent claim 47 to recite an inflatable balloon mounted radially inside only the retrograde portion and sized to:

engage and anchor only a proximal portion of the endoluminal device after unsheathing of the distal portion of the endoluminal device.

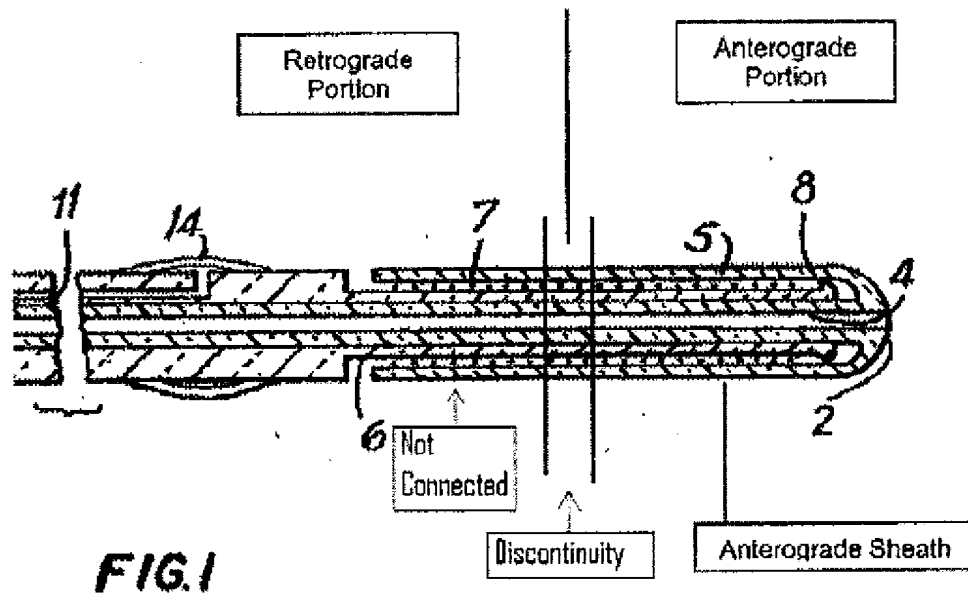
Claim 47 has also been amended to recite:

a retrograde portion including a proximally retractable retrograde sheath mounted concentrically over the shaft and inner sheath in the retrograde portion of the introducer and extending distally over a retrograde portion of the endoluminal device, wherein the retrograde sheath and the anterograde sheath are laterally spaced from one another at least when the retrograde sheath is proximally retracted.

Such amendments incorporate at least a portion of the subject matter of dependent claim 6, which was rejected over Burton in view of Abrams and Fielder. To the extent that said rejection could apply to Applicant's independent claims 1 and 47, as amended, Applicant will address the same herein.

Page 5 of the Office Action states that Burton "does not specifically disclose the sleeve as comprising a distinct and separate antegrade sheath and a retrograde sheath." Fielder was cited as teaching that a stent can be released in a retrograde manner or in a medial manner wherein the outer sleeve retracts proximally and distally to release the stent from a central location. Page 6 of the Office Action concludes that it would have been obvious to modify Burton to use a medial stent release approach instead of a retrograde approach.

With respect to the helpfully provided interpretation of Burton's Figure 1 on Page 3 of the Office Action, Applicant notes that a modification of Burton to provide medial stent release would require a discontinuity of the identified "Antegrade Sheath" to provide both a retrograde sheath and an antegrade sheath that are laterally spaced from one another at least when the retrograde sheath is proximally retracted as claimed, e.g., a separation of the Burton device along the line separating the "Retrograde Portion" and the "Antegrade Portion." Such a separation, an example of which is indicated below, would leave Burton's the retrograde sheath disconnected from any other part of the introducer.



Such a modification would not read on Applicant's claim language requiring "a proximally retractable retrograde sheath." With the retrograde portion of the sheath disconnected from the rest of the device, it could not be proximally retracted, e.g., by operation of the end 3 of the Burton device.

Furthermore, the combination of Burton, Adams, and Fielder does not teach an anchoring means (e.g., an inflatable balloon) configured to (e.g., sized to) engage and anchor only a proximal portion of the endoluminal device after unsheathing of the distal portion of the endoluminal device. Page 4 of the Office Action states that:

the balloon expandable stent of Burton in view of Abrams allows the proximal end to be released first so that the balloon anchors the proximal end of the stent while the sleeve is still unsheathing the distal end of the stent.

Even if Burton were fitted with an inflatable balloon rather than being a self-expanding stent, one of ordinary skill in the art would be motivated to place the inflatable balloon under the entire stent in order to provide for expansion of the entire stent. While such a configuration might allow the proximal end of the stent to be anchored during unsheathing of the distal end of the stent, such a configuration would not allow only a proximal end of the endoluminal device to be engaged and anchored after unsheathing of the distal portion of the endoluminal device.

Therefore, the references do not, either independently or in combination, describe, teach or suggest each and every element limitation of independent claims 1 or 47, as amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of independent claims 1 and 47, as well as for those claims that depend therefrom.

Claims 6, 30-33, and 51 were rejected under 35 USC § 103(a) as being unpatentable over Burton, et al. (U.S. Patent No. 5,078,720) in view of Abrams, et al. (U.S. Publication No. 2003/0050684) and Fiedler (U.S. Patent No. 5,817,101). Applicant respectfully traverses the rejection as follows.

Claim 30 has been cancelled. Claims 6, 31-33, and 51, depend either directly or indirectly from independent claim 1. For the reasons provided above, Applicant respectfully submits that independent claim 1 is allowable in view of the Burton, Abrams, and Fielder references.

As such, the references do not, either independently or in combination, describe, teach or suggest each and every element and limitation of independent claim 1, as amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of dependent claims 6, 31-33, and 51 that depend from allowable claim 1.

Claims 7-8 and 17 were rejected under 35 USC § 103(a) as being unpatentable over Burton, et al. (U.S. Patent No. 5,078,720) in view of Abrams, et al. (U.S. Publication No. 2003/0050684), Fiedler (U.S. Patent No. 5,817,101) and Zadno-Azizi, et al. (U.S. Patent No. 6,022,336). Applicant respectfully traverses the rejection as follows.

Claims 7-8 and 17 depend either directly or indirectly from independent claim 1. For the reasons provided above, Applicant respectfully submits that independent claim 1 is allowable in view of the Burton, Abrams, and Fielder references. From the Applicant's review, the Zadno-Azizi reference does not cure the deficiencies of the Burton, Abrams, and Fielder references with respect to claim

1. That is, the Zadno-Azizi reference does not describe, teach or suggest an anchoring means configured to:

engage and anchor only a proximal portion of the endoluminal device after unsheathing of a distal portion of the endoluminal device.

Nor does the Zadno-Azizi reference teach:

a proximally retractable retrograde sheath mounted concentrically over the shaft and inner sheath in the retrograde portion of the introducer and extending distally over a retrograde portion of the endoluminal device, wherein the retrograde sheath and the anterograde sheath are laterally spaced from one another at least when the retrograde sheath is proximally retracted.

As such, the references do not, either independently or in combination, describe, teach or suggest each and every element and limitation of independent claim 1, as amended. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejection of claims 7-8 and 17 which depend from allowable claim 1.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0122 to facilitate prosecution of this matter.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being filed electronically with the U.S. Patent and Trademark Office on this 14 day of August, 2009.

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